IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1366 OF 2007

IN

SUIT NO.2531 OF 2004

Mrs.Sushilarani Baburao Patel ..Plaintiffs.

Versus

Chandru J.Punjabee & Ors. . ..Defendants.

Mr.M.Jadhav for plaintiffs.

Mr.Abhijeet Mule i/b.Divya Shah for defendant Nos.1 to 11.

Mr.R.Y.Shirsikar for defendant No.12.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 3rd September, 2007.

P.C.:

1. This chamber summons was on Board on 13th August, 2007. Time was granted to file reply thereto but the same is not yet filed. Once again, the adjournment is sought on the same grounds as were noted in the earlier order.

2. Adjournment refused. The defendant No.10 has been duly served with the chamber summons and the writ of

summons. The affidavit proving service of the chamber summons on the defendant No.10 is filed and an appearance is already filed on record.

3. Perused the chamber summons and the affidavit in support thereof. In my view, all that is being sought to be incorporated in the plaint is of additional relief, based upon the terms and conditions of the Agreement dated 8th March, 2002. There is no change in the cause of action nor the chamber summons can be said to be vitiated by malafides. All that is urged is that the chamber summons is belated. The suit is of the year 2004 and the chamber summons is taken out in the year 2007. The interlocutory proceedings are also pending. In such circumstances, the delay is not such as would disentitle the plaintiff from amending the plaint. Chamber summons is made absolute in terms of prayer clause (a). Amendment to be carried out within a period of two weeks from today. Copy of the amended plaint to be served on the defendants within two weeks from the date of carrying out the amendment.

4. Needless to state that the defendants would be at liberty to file an additional written statement and incorporate all pleas therein, including that the amended

claim is barred by law of limitation. Keeping open all such contentions of both sides, the chamber summons is made absolute.

5. At the request of plaintiff’s Advocate, four weeks time is granted to pay additional Court fees, if any. S.O. for four weeks.

(S.C.Dharmadhikari, J.)